

# June 2004

## Update: Juvenile Justice Benchbook (Revised Edition)

### CHAPTER 7

#### Pretrial Proceedings in Delinquency Cases

##### 7.8 Evaluating a Juvenile's Competence

Please delete the first paragraph of the May 2004 update to page 164 that indicates that *In re Blackshear* is an unpublished opinion and is therefore not binding under the rule of stare decisis. On May 18, 2004, *Blackshear* was approved for publication. *In re Blackshear*, \_\_\_ Mich App \_\_\_ (2004).

## CHAPTER 10

### Juvenile Dispositions

#### 10.9 Dispositional Options Available to Court

##### K. State Minimum Costs

Effective May 13, 2004, 2004 PA 102 amended MCL 712A.18m to require a court to order minimum state costs only if the court also orders the juvenile to pay other fines, costs, restitution, assessments or other payments. In the October 2003 update to page 226, replace the quoted paragraph (1) with the following quote:

“(1) If a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter, and is ordered to pay any combination of fines, costs, restitution, assessments, or payments arising out of the same juvenile proceeding, the court shall order the juvenile to pay costs of not less than the following amount, as applicable:”

## 10.9 Dispositional Options Available to Court

### K. State Minimum Costs

In the October 2003 update to page 228, insert the following text following the quotation of MCL 771.3(7)(a)-(b):

A juvenile who has been ordered to pay state minimum costs\* as a condition of probation or supervision and who is not in willful default of the payment may petition the court at any time for a remission of the payment of any unpaid portion of the state minimum costs. MCL 712A.18(19). The court may remit all or part of the amount of the state minimum cost due or modify the method of payment if the court determines that payment of the amount due will impose a “manifest hardship on the juvenile or his or her immediate family.” *Id.*

\*State minimum costs ordered pursuant to MCL 712A.18m. See the October 2003 update for more information on state minimum costs.

## CHAPTER 25

### Recordkeeping & Reporting Requirements

#### 25.20 Required Communicable Disease Testing

##### A. Mandatory Testing or Examination of Juveniles Bound Over for Trial in the Criminal Division

Effective May 13, 2004, 2004 PA 98 amended MCL 333.5129 to require testing for hepatitis C infection. On page 549, replace the first paragraph with the following text:

If a defendant is bound over to the Criminal Division for a violation of any of several enumerated offenses, and if the district court determines there is reason to believe the violation involved sexual penetration or exposure to the body fluid of the defendant, the district court must order the defendant to be examined or tested for venereal disease, hepatitis B infection, hepatitis C infection, and for the presence of HIV or an HIV antibody. MCL 333.5129(3).

##### B. Mandatory Testing or Examination Following Juvenile Adjudication or Conviction

On page 550, replace the first paragraph in this subsection with the following text:

MCL 333.5129(4) states that upon conviction of a defendant or the issuance by the Family Division of an order adjudicating a child to be within the provisions of MCL 712A.2(a)(1) for a violation of any of the following offenses, the court having jurisdiction of the criminal prosecution or juvenile hearing must order the defendant or child to be examined or tested for venereal disease, hepatitis B infection, and hepatitis C infection, and for the presence of HIV or an HIV antibody.

## 25.20 Required Communicable Disease Testing

### E. Ordering Payment of the Costs of Examination and Testing

Effective May 13, 2004, 2004 PA 98 amended MCL 333.5129 to allow a court to order a juvenile to pay the costs of communicable disease testing. On page 552, insert the following new subsection:

Upon conviction or juvenile adjudication, the court may order an individual who is examined or tested under MCL 333.5129 to “pay the actual and reasonable costs of that examination or test incurred by the licensed physician or local health department that administered the examination or test.” MCL 333.5129(10). MCL 333.5129(11) states:

“An individual who is ordered to pay the costs of an examination or test under [MCL 333.5129(10)] shall pay those costs within 30 days after the order is issued or as otherwise provided by the court. The amount ordered to be paid under [MCL 333.5129(10)] shall be paid to the clerk of the court, who shall transmit the appropriate amount to the physician or local health department named in the order. If an individual is ordered to pay a combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments upon conviction in addition to the costs ordered under [MCL 333.5129(10)], the payments shall be allocated as provided under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32, the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, and the crime victim’s rights act, 1985 PA 87, MCL 780.751 to 780.834. An individual who fails to pay the costs within the 30-day period or as otherwise ordered by the court is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.”